

AMENDED IN SENATE MAY 20, 2003

AMENDED IN SENATE MAY 5, 2003

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 584

Introduced by Senator Alarcon

February 20, 2003

An act to add Section 17531.3 to the Business and Professions Code, relating to advertising.

LEGISLATIVE COUNSEL'S DIGEST

SB 584, as amended, Alarcon. Advertising.

Existing law makes it unlawful for a business to engage in specified practices relating to the advertisement of its products or services. *Under existing law, those practices may constitute acts of unfair competition that may be prosecuted in a civil action brought by, among others, the Attorney General.*

This bill would require a person operating in specified businesses, including insurance and public utilities, who advertises, promotes, or markets a service or product ~~in a language other than English~~ *designated languages* to, upon the request of a consumer, provide specified materials to him or her and to notify consumers of the right to request these materials. The bill would allow a person with annual gross revenues of less than an unspecified amount to satisfy these requirements by other designated means. ~~The bill would make a violation of these requirements subject to the assessment and collection of a civil penalty not to exceed \$5,000 in an action brought by a consumer or if the violation is committed by a person operating in the~~

~~business of insurance or public utilities, by the Insurance Commissioner or the Public Utilities Commission, respectively.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17531.3 is added to the Business and
2 Professions Code, to read:

3 17531.3. (a) A person who advertises, promotes, or markets
4 a service or product ~~in a language other than English~~ *Spanish,*
5 *Chinese, Tagalog, Vietnamese, or Korean* shall, upon the request
6 of a consumer, provide the following material in that other
7 language:

8 (1) Information on the rates, terms, and conditions for
9 providing the service or product that was advertised, promoted, or
10 marketed.

11 (2) Information on accessing repair and customer services,
12 including the process to make a billing inquiry.

13 (b) A person who advertises, promotes, or markets a service or
14 product ~~in a language other than English~~ *Spanish, Chinese,*
15 *Tagalog, Vietnamese, or Korean* shall notify consumers of their
16 right to request the materials described in subdivision (a).

17 (c) The following definitions apply for the purposes of this
18 section:

19 (1) “Advertise” means ~~to use any electronic, written, or verbal~~
20 *disseminate or cause to be disseminated by television, radio,*
21 *newspaper, or the Internet, any message to market to and attract a*
22 *customer.*

23 (2) “Consumer” means a natural individual.

24 (3) “Person” has the same meaning as in Section 17506 and
25 includes only a person who operates in the following businesses:
26 banking, insurance, public utility, credit union, money transferer,
27 automobile dealer, or check cashing.

28 (d) Notwithstanding subdivisions (a) and (b), a person with
29 annual gross revenues of less than ____ dollars (\$____) may
30 comply with the requirements of subdivisions (a) and (b) by either
31 of the following means:

32 (1) Providing the information described in subdivision (a)
33 within 14 days of its initial contact with the consumer.

1 (2) Providing the consumer with a location or telephone
2 number where the information described in subdivision (a) may be
3 obtained.

4 ~~(e) Notwithstanding any other provision of law, a violation of~~
5 ~~this section is punishable by the assessment and collection of a~~
6 ~~civil penalty in an amount not to exceed five thousand dollars~~
7 ~~(\$5,000) for each violation. An action to assess and collect the civil~~
8 ~~penalty may be brought by a consumer who was not provided the~~
9 ~~materials, as described in subdivision (a), or was not notified of his~~
10 ~~or her right to request those materials, as described in subdivision~~
11 ~~(b) or was not provided the information as described in subdivision~~
12 ~~(d). The Insurance Commissioner or the Public Utilities~~
13 ~~Commission, respectively, may bring an action under this~~
14 ~~subdivision if the violation is committed by a person operating in~~
15 ~~the business of insurance or by a person operating in the business~~
16 ~~of a public utility. The court shall make a distinction between~~
17 ~~negligence and willful market abuse in determining the amount of~~
18 ~~the civil penalty. The court shall award a consumer who prevails~~
19 ~~in the action reasonable attorney's fees and costs.~~

20 (f)

21 (e) This section does not apply to a nonprofit organization that
22 is exempt from the payment of income taxes under Section
23 501(c)(3) of the Internal Revenue Code.

